THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.25741 OF 2005

DATED:20.12.2005

Between:

D.Krishna Reddy and others

…Petitioners

And

The District Collector, Ranga Reddy District

at Lakdi-ka-pool, Hyderabad and another

…Respondents

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WRIT PETITION NO.25741 OF 2005

ORDER:

The petitioners are residents of Thattiannaram Village of Hayatnagar Mandal, Ranga Reddy District. They allegedly own land admeasuring Acs.4.26 gts. in S.No.93 (part) of the said Village in respect of which they also obtained pattadar pass books and title deeds and allegedly in possession of the property. It is their grievance that the second respondent herein without in any manner of right and without issuing any notice tried to dismantle the construction made on their patta lands on allegation that the petitioners' land is coming within full tank level (FTL) of Ooracheruvu adjacent to petitioners' land. The petitioners contend that they are nothing to do with the said kunta/tank and the action of the second respondent, is arbitrary and illegal.

At the stage of admission itself, learned Assistant Government Pleader for Revenue (General) obtained instructions from the respondents. He submits that the tank is situated in S.No.88, which is a Government land, and though the petitioners' land in S.No.93 (part) is patta land, the petitioners were found making constructions within FTL and therefore they were prevented. He placed reliance on Section 7 of A.P. (Telangana Area) Irrigation Act, 1357 fasli (for short, the Act). The said provision reads as under.

> **7. Powers of Irrigation Officer regarding use of water**:- At any time after the day specified in the notification, any irrigation officer empowered in this behalf may, subject to the provisions of Section 11 enter on any land, remove any obstruction, close any channel and do any other work necessary for the use of the water for such purpose, and may take with him or depute or employ, such subordinate or other persons as he deems fit.

The power of the Irrigation Officer to enter in any land and remove any obstruction or close any channel is subject to issue of notice under Section 11 of the Act which contemplates issue of notice by the Irrigation Officer to such person whose property is adjacent to a flood embankment. In this case, admittedly no such notice was issued. Therefore, liberty is given to the Mandal Revenue Officer/Irrigation officer to take action in accordance with Section 7 read with Section 11 of the Act. Further, admittedly the land in question is agricultural land. Therefore, if the petitioners seek to make any construction for the purpose of agriculture, the same shall be subject to action that may be initiated by the respondents. However, they shall not make any construction in the tank bed area, or the area, which falls under FTL.

The Writ Petition with the above observations and directions is accordingly disposed of.

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(V.V.S.RAO, J)

20.12.2005

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